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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,948	02/19/2002	John M. Haltmeyer	24946	3414

24932 7590 03/03/2009

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EXAMINER	
ALMEIDA, DEVIN E	

ART UNIT	PAPER NUMBER
2432	

NOTIFICATION DATE	DELIVERY MODE
03/03/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/076,948	HALTMEYER, JOHN M.	
	Examiner	Art Unit	
	DEVIN ALMEIDA	2432	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4 and 9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4 and 9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the papers filed 2/12/2009.

Response to Arguments

Applicant's arguments with respect to Winneg not disclosing "a multi-user system" have been fully considered but they are not persuasive. Winneg clearly discloses a multi-user system in column 4 lines 8-18 workstation of a computer lab.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., creating a list of authorized applications in a database on the network) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). A multi-user system can be construed as a computer that multiple user use not just a network.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 2 and 4 are rejected under 35 U.S.C. 101 because the claim invention is directed to non-statutory subject matter. With the respect to claim 2 and 4, what is being claimed appears to read on software alone. Software by itself is not statutory. A claim to a data structure, per se, or other functional descriptive material, including

computer programs, per se, is not patent eligible subject matter. This is exemplified in In re Warmerdam 31 USPQ2d 1754 where the rejection of a claim to a disembodied data structure was affirmed. Functional descriptive material claimed in combination with an appropriate computer readable medium to enable the functionality to be realized is patent eligible subject matter if it is capable of producing a useful, concrete and tangible result when used in the computer system. Compare Warmerdam to In re Lowry 32 USPQ2d 1031 where a memory with a data structure that increased computing efficiency was patentable.

Claim Rejections - 35 USC § 102

Claims 1, 2, 4 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Winneg et al (US 7,165,269).

With respect to claim 1, a process for controlling the application that a computer user my run on a multi-user system, comprising the steps of:

Automatically using a security executable on the multi-user system (see column 4 lines 8-18 workstation of a computer lab) in user mode to create a list of authorized application in a database of the multi-user system for computer user when the computer user logs on to the multi-user system (see column 18 lines 47-56 i.e. A list of processes authorized to be executed on the computer system may be maintained, for example, as part of the method 100. Such a list may be maintained in any of a variety of ways, for example, by storing the list in one or more registers, by representing the list using one

or more abstraction implemented using a programming language, or by storing the list in a file such as a text file);

attaching a hook function in user mode to all new applications (see column 12 lines 43-59); employing the hook function whenever a new application is started to send a message to the security executable in user mode (see column 12 lines 43 column 13 line 2), said message including a process id and path of the new application (see "SetWindowsHookEx" reference, Dietmoday inherent in windows to SetWindowsHookEX function parameter dwThreadID); receiving said message from the hook function at the security executable and correlating to said list to determine whether the new application is authorized or not (see figure 10 and column 19 lines 10-16); answering the message by the security executable when the new application is authorized to indicate so (see column 13 lines 3-20); stopping the new application when the new application is not authorized (see column 19 lines 53-57).

With respect to claim 2, a software system for controlling the applications that a computer user may run on a multi-user system, comprising:

a first program module for automatically attaching a hook function to all new applications in user mode when the computer user logs on to the multi-user system and for querying an ID of each said new application (see column 12 lines 43-59);

a second program module for communicating with said first program module by sending a message with the application ID and the path of the application being examined, said second program module using a security executable on the multi-user

system in user mode to build a list of allowed applications in the database of the multi-user system (see column 18 lines 47-56), retrieving retrieve the ID of each new application from said first program module (see figure 10 and column 19 lines 10-16), terminate each new application not identified on said list of allowed applications, and answering a message from said first program molule when the application is identified on said list of allowed applications (see column 19 lines 53-57).

With respect to claim 4, wherein said first program module is attached to said new processes by tying into the USER32 using the system dynamic link library (see column 13 lines 21-29).

With respect to claim 9, comprising the steps of: using a security executable on the multi-user system in user mode to create and maintain a list of authorized applications in a database of the multi-user system and IDs for each computer user when the computer logs on to the network (see column 18 lines 47-56); attaching a hook function to all new applications (see column 12 lines 43-59); monitoring all new applications that are started with the hook function and determining an application ID thereof (see figure 10 and column 18 line 27 – column 19 line 57); receiving said application ID from the hook function by the security executable (see "SetWindowsHookEx" reference, Dietmoday inherent in windows to SetWindowsHookEX function parameter dwThreadID); determining whether the application ID of each started application is on said list (see column 13 lines 3-20); allowing said application to continue when its application ID is on the list (see column 13

lines 3-20); terminating said application when its application ID is not on the list (see column 19 lines 53-57).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Almeida whose telephone number is 571-270-1018. The examiner can normally be reached on Monday-Thursday from 7:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

/Devin Almeida/
Examiner, Art Unit 2432
10/01/2008

/Benjamin E Lanier/
Primary Examiner, Art Unit 2432